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March 28, 2023

Sent Via Electronic and Regular Mail

Hazlet Township Land Use Board
1766 Union Avenue
Hazlet, NJ 07730

Attn: Ms. Laura McPeek
Land Use Board Secretary

**Re: Hazlet Station, LLC (Applicant)
Application No. 23-01L
Engineering/Planning Review #1
Use Variance (Bifurcated)
Location: 645 Holmdel Road, Hazlet, NJ
Block 229, Lots 1; Tax Map Sheet 1.10
Zone: B-N(2) Business Neighborhood District
CME File: HHZL0229.01**

Dear Land Use Board Members:

In accordance with your authorization, CME has performed a review of the above-referenced application, including but not limited to, the following:

- Plans entitled "Use Variance Plan, Lot 1 Block 229 Tax Map Sheet 1.10, Township of Hazlet, Monmouth County, NJ; prepared by WJH Engineering; drawing sheets 1 through 3 of 3; dated February 7, 2023, unrevised;
- Corner View, New Mixed Use Bldg., Hazlet Station, NJ, rendered elevation plan prepared by Sonnenfield + Trocchia, Architects, P.A.; Dated: 16 January, 2023.
- Hazlet Township Land Use Board Use Variance Application; dated: 2/07/2023;
- Request for Taxpayer Identification Number and Certification; dated February 7, 2023;
- Application cover letter; dated February 8, 2023; prepared by Louis E. Granata, P.C., Attorney at Law

Based on our review of the submitted information, the Applicant has met the submission requirements per the Ordinance and our office recommends that this application be deemed **COMPLETE**.



Hazlet Township Land Use Board
Re: Hazlet Station, LLC; Use Variance
Engineering and Planning Review #1

March 28, 2023
Our File No. HHZL0229.01
Page 2

CME offers the following comments for the Board's consideration:

1) Project Description

This application pertains to an undeveloped parcel of land located on the east side of Holmdel Road (also know as Monmouth County Route 4), south of the NJ Transit parking area for the Hazlet train station. The subject site has partial tree cover with areas of low over growth and a dirt access drive from Holmdel Road. There are no buildings present on the site and the site is vacant with respect to use.

The Applicant is seeking a use variance pursuant to N.J.S.A. 40:55D-70(d)(1) to permit the construction of a 15,000 square-foot footprint, four (4) level mixed-use (business and residential) building comprised of the following:

- Ground floor to be utilized for eighteen (18) understory garage parking spaces, storage units, building access, mail room and lobby;
- First floor including an exterior 4,500 square foot promenade area and 15,000 square feet (gross area) of interior building area for retail uses. The applicant shall indicate the area of the first floor dedicated to retail and residential uses. The plans indicate 5,000 square feet which would result in retail stores that are twenty feet (20') in depth;
- Two floors of residential units above. Thirty five (35) total residential units are proposed including twenty eight (28) market rate units and seven (7) affordable units. The proposed distribution of the units is as follows:
 - 14 – one bedroom including two (2) maximum affordable units
 - 19- two bedroom including three (3) affordable units
 - 2 – three bedroom; all affordable units

The Applicant has elected to bifurcate the application and seeks only “use variance” approval at this time. As such, the Applicant has submitted an architectural elevation of the building with a conceptual site plan with parking and conceptual landscaping for consideration by the Board at this time. If the Board grants the use variance requested, the Applicant will be required to submit an application for Preliminary and Final Major Site Plan approval to the Board.

The subject property is located in the B-N(2) Business Neighborhood Zone District (§181-402.02) of the Township Development Review Ordinance. The B-N(2) Zone District permits neighborhood shopping centers that include at least four or more uses permitted in the B-N(1) zone within a planned integrated development, as well as free standing independent uses permitted in the B-N(1) Zone. Allowed business uses include a bank, professional office, child care, computer training, restaurant, retail sales and professional services but does not allow residential uses, thereby necessitating the “d(1)” use variance relief sought by the Applicant.



Hazlet Township Land Use Board
Re: Hazlet Station, LLC; Use Variance
Engineering and Planning Review #1

March 28, 2023
Our File No. HHZL0229.01
Page 3

A “d(1)” variance is required when an applicant seeks to place a use or principal structure on a property where such a use or principal structure is prohibited or restricted under the local land use ordinance. The application will also require a “d(6)” variance for the proposed building height and several bulk variances (“c” type) in a future filing, contingent on the granting of the use variance. It should be noted that our office has not identified every “c” variance required with the application as the site plan may change should the applicant receive use variance approval and decide to move forward with a site plan application.

2) **Master Plan and Surrounding Uses**

The 2017 Township Master Plan Reexamination Report established Land Use goals that include:

- “Maintain existing neighborhood residential development patterns while providing the opportunity for a variety of housing types.”
- “Encourage high quality design in residential, commercial and industrial development.”
- “Provide for the expansion of the economic and tax bases of the Township through the encouragement of continuous upgrading of existing commercial business areas including but not limited to the Route 35 and Route 36 corridors”
- “Encourage mixed use development in appropriate nodes to support smart growth planning.”

A housing recommendation in the Master Plan is to “Encourage new mixed-use development to include affordable units.”

The subject site is bordered by the R-70 Residential zoning district and single family residential uses to the south and east. NJ Transit parking for the Hazlet train station abuts the site to the north, along with the train station serving the south-bound line of the North Jersey Coast Line operated by New Jersey Transit. Holmdel Road lies to the west, beyond which are commercial uses and single-family residential uses.

3) **Use Variance**

As noted above, the subject application requires a Use Variance pursuant to N.J.S.A. 40:55D-70(d)(1) to permit the residential use to create the mixed (retail and residential) use development. The Applicant shall provide testimony to the Board that satisfies the “positive” and “negative” criteria for use variance relief as follows:

Positive Criteria

There are two prongs to the positive criteria that the Applicant must satisfy for a d(1) variance. The Applicant must demonstrate:

- That the site is particularly suited to the use;



Hazlet Township Land Use Board
Re: Hazlet Station, LLC; Use Variance
Engineering and Planning Review #1

March 28, 2023
Our File No. HHZL0229.01
Page 4

- That there are sufficient “special reasons” that allow for a departure from the zoning regulations in this particular case. The purposes of zoning are established by the Municipal Land Use Law (N.J.S.A. 40:55D-2) and the Applicant must demonstrate that the variance promotes one or more of those purposes to establish special reasons; and,
- Alternatively, the Applicant may offer as a special reason proof that the refusal to grant the variance would result in undue hardship. Proof of undue hardship for a “d” variance requires that the Applicant prove that the property cannot be reasonably adapted to conform to the zone requirements.

Negative Criteria

There are two prongs to the negative criteria that the Applicant must satisfy for a d(1) variance. The Applicant must demonstrate:

- That the variance can be granted without substantial detriment to the public good; and
- That granting the variance will not substantially impair the intent and purpose of the zone plan and zoning ordinance. In addressing this prong of the negative criteria, the Applicant shall address the “enhanced quality of proof” as set forth in Medici v. BPR Co. that the grant of a use variance is not inconsistent with the intent and purpose of the master plan and zoning ordinance. Such proofs and findings must reconcile the grant of a use variance with the Zoning ordinance's omission of the proposed use from the uses permitted in the zone. Thus providing a more substantive basis of determination the variance "will not substantially impair the intent and purpose of the zone plan and zoning ordinance." N.J.S.A. 40:55D-70(d).

4) Zoning Compliance, Bulk Variances and Waivers

While the applicant has requested approval for the Use Variance only at this time, the following discussion highlights variances or other issues identified from the Use Variance Plan. We note that any approval of the d(1) use variance by the Board is contingent on Preliminary and Final Major Site Plan Approval and receipt of all applicable outside agency approvals for the project.

- a. Bulk Regulations: The table below identifies the bulk regulations for the B-N(2) zone for “other uses.” As the proposed plan is a mixed-use commercial/residential development, it does not meet the definition of a shopping center and therefore the proposed use is considered an “other use” and the standards for that category should be applied.



Hazlet Township Land Use Board
 Re: Hazlet Station, LLC; Use Variance
 Engineering and Planning Review #1

March 28, 2023
 Our File No. HHZL0229.01
 Page 5

Bulk Regulations: B-N(2) Business Neighborhood District		
	Other Uses	Proposed
Minimum Lot Area (square feet)	40,000	83,506
Minimum Lot Width (feet)	150	266
Minimum Lot Frontage (feet)	150	280.13
Minimum Lot Depth (feet)	200	372.85
Minimum Front Yard Setback (feet)	50	57.8
Minimum Rear Yard Setback (feet)	50	61.3
Minimum Side Yard Setback One / Combined (feet)	20 / 50	25 / 126
Maximum Percentage Building Coverage	25%	18.0%
Maximum Percentage Lot/Impervious Coverage	45%	73.6% (V)
Maximum Number of Stories	2	3/4 (V)
Maximum Building Height (feet)	25	35 – d(6) height variance
(V) Variance (e) Existing Non-Conformity		

- i. Maximum Building Height: 25 feet is allowed, whereas the proposed building is indicated to be 3 story/35 feet in height. A variance is required for the number of stories. Furthermore, a d(6) height variance is required as the proposed height of 35 feet is both 10% greater and 10 feet greater than the maximum permitted in the B-N(2) zone (25 feet). Either of these conditions would require the d(6) variance.

The Applicant shall also confirm the proposed building height. Including the understory parking, the building is four (4) stories and appears to be taller than 35 feet.
- ii. Maximum Lot Coverage: 45% allowed and 73.6% is proposed. A variance is required.
- b. Parking: The following table indicates the parking requirements for the proposed new development, per §181-408.14.D of the Zoning Ordinance. For the purposes of the parking analysis, the retail uses on the first floor are considered a business neighborhood shopping center, with retail sales and service. However, the overall use of the property remains “mixed use” and therefore “other use” as noted above.



Hazlet Township Land Use Board
 Re: Hazlet Station, LLC; Use Variance
 Engineering and Planning Review #1

March 28, 2023
 Our File No. HHZL0229.01
 Page 6

It is also noted that the residential parking demand is determined utilizing the Residential Site Improvement Standards (RSIS).

Use	Standard (Minimum)	Required	Proposed
Residential: One-Bedroom	1.8 / residential unit	14 x 1.8 =25.2	
Residential: Two-Bedroom	2.0 / residential unit	19 x 2.0 = 38	
Residential: Three-Bedroom	2.1 / residential unit	2 x 2.1 = 4.1	
Shopping Center (Business Neighborhood), Retail Sales & Service	7 spaces / 1,000 square feet of leasable floor area	5,000 x 7/1,000 = 35	
Parking Provided		102.3, rounds up to 103	115
EV Spaces			0
TOTAL COUNTED SPACES			115

- i. The parking calculation in the table is based on the information in the “Parking Requirement” table on the cover sheet of the Use Variance Plan.
- ii. The proposed development is required to provide electric vehicle parking spaces and/or Make-Ready spaces per State statute and the State-wide Model Ordinance. The Applicant is required to provide eleven (11) spaces with electric vehicle equipment for the residential component, four (4) of which must have full EVSE and seven (7) may be Make-Ready prior to issuance of the Certificate of Occupancy (CO). An additional one (1) Make-Ready space must be provided for the commercial component. No EVSE or Make-Ready spaces are identified or confirmed on the plans.
- iii. The width of the interior driveway at the southern end of the parking area shall be provided.
- iv. Per §181-408.14.B of the Zoning Ordinance parking spaces must be 10 feet wide by 20 feet long. The Use Variance Plan indicates the parking spaces are to be 9 feet wide by 18 feet long. This does not comply and a variance is required.



Hazlet Township Land Use Board
Re: Hazlet Station, LLC; Use Variance
Engineering and Planning Review #1

March 28, 2023
Our File No. HHZL0229.01
Page 7

- v. Per §181-408.14.H.16 of the Zoning Ordinance, no required off-street parking and loading space including maneuvering areas for such off-street parking or loading space shall be established in an area between the front building line and the street right-of-way line in the BN-2 zone. A variance is required.;
- vi. Individual parking spaces are prohibited in the front yard setback area per §181-408.15 of the Zoning Ordinance. The plan shows parking spaces in the front yard setback area. A variance is required.
- c. Signs: Applicant shall confirm how many signs will be proposed. We note that one directory ground sign is permitted for the site, and one façade sign per business is permitted.
- d. Fencing: A six-foot tall board-on-board fence is proposed along the southerly property boundary to help provide screening for the residential properties to the south. An 8-10 feet foot tall evergreen screen is also provided along this boundary.
- e. Loading: Retail operations and all first floor non-residential uses of more than 3,000 square feet and less than 20,000 square feet require one loading space of 15 feet wide by 45 feet long with height clearance of 15 feet. A loading space is not indicated on the plan except in the northeasterly corner of the site. The Applicant shall clarify if this is intended as the loading space or if it is only related to the refuse enclosure.
- f. Buffering and Screening: When any business, commercial or industrial building or uses, including but not limited to off-street parking area, occupy a lot in any district as permitted by ordinance and such lot abuts a Residential Zone, that portion specified herein of the yard or yards immediately adjacent to and along the entire length of such lot, shall be considered a buffer strip. The Applicant shall provide testimony regarding the proposed buffer strips including the following:
 - i. The buffer strip shall be located within the required yard area of the property used for nonresidential purposes, and the structures and planting required by this Ordinance shall be provided and properly maintained by the owner of the nonresidential property. No part of any buffer strip shall be occupied by a sign, or by any structure or use except as specifically permitted in this section.
 - ii. Buffer strips shall be planted with lawn, ornamental shrubbery and other suitable plantings approved by the Land Use Board Engineer, to provide an effective screen along the entire length of the buffer strip between nonresidential uses and the abutting residential zone. Within the buffer area, a solid and continuous landscape screen at least six feet in width shall be planted and maintained. The landscape screen shall consist of massed evergreen and deciduous trees and shrubs at least four feet in height of such species and size as will produce within two growing seasons a screen at least six feet in height. Any portion of a buffer



Hazlet Township Land Use Board
Re: Hazlet Station, LLC; Use Variance
Engineering and Planning Review #1

March 28, 2023
Our File No. HHZL0229.01
Page 8

strip not planted with shrubbery or trees shall be graded and planted with grass seed or sod, and be attractively maintained and kept free of all debris and rubbish.

- iii. The minimum width of a buffer strip in the BN-2 Zone shall be ten feet (10').
 - iv. A free-standing wall or fence shall not be more than four feet in height and may be erected on either side of a buffer strip.
 - v. Buffer Strip for Off-Street Parking Areas. In the case of off-street parking areas whether on a separate lot or within the yard of the building to which such parking areas are appurtenant, a solid wall or a substantial, tight, neat fence, four feet in height above grade of the land in the abutting Residential Zone, shall be constructed along the entire length of the buffer strip. In the case of off-street parking areas, such wall or fence may be located within the buffer strip, but shall be distant at least five feet from the abutting Residential Zone. In addition, for the uses specified in this section, the planting specified shall be located in the buffer strip on the Residential side of such wall or fence.
- g. The Applicant shall provide testimony to the Board that addresses the “positive” and “negative” criteria required for the Board to grant any variance relief sought by the Applicant. The Applicant’s testimony should focus on the following:
- i. Positive Criteria: The Applicant shall provide testimony to the Board regarding the physical conditions of the property and how the strict application of the provisions of the ordinance would result in a hardship that is inconsistent with the purpose and intent of the ordinance. Alternatively, the Applicant must testify that the required variance furthers the purposes of the Municipal Land Use Law and that the benefits of granting the variance will substantially outweigh any detriments.
 - ii. Negative Criteria: The Applicant must demonstrate that the variance can be granted without substantial detriment to the public good and that the granting of the variance will not substantially impair the intent and purpose of the zone plan and zoning ordinance.

5) Additional Comments

- a. The Applicant shall provide testimony to the Board that summarizes the anticipated mix of the proposed uses of the business (retail stores and restaurant/café operations) and anticipated:
 - (i) Hours of operation of the retail/restaurant/café uses;
 - (ii) Anticipated number of employees and maximum number of employees per shift;
 - (iii) Anticipated time and frequency of deliveries to the site; loading and unloading operations associated with deliveries;



Hazlet Township Land Use Board
Re: Hazlet Station, LLC; Use Variance
Engineering and Planning Review #1

March 28, 2023
Our File No. HHZL0229.01
Page 9

(iv) Anticipated frequency of trash removal from the site.

- b. The applicant should provide testimony to clarify the parking required by zoning and parking proposed. Parking requirements are determined by Section 181-408.14 of the Development Review Ordinance which requires "Any building or site containing more than one use shall meet the combined parking space and loading requirements for all uses, based on the area utilized for each separate use." The Use Variance Plan, Zoning Table, lists the size of the proposed Retail use as 5,000 square feet. The area of the first floor building interior is 15,000 square feet (gross floor area). It appears the "Retail" uses would include the entire interior first floor, thus 15,000 square feet of area. The Applicant should provide testimony discussing this discrepancy.
- c. Use Variance Plan shows the removal of three (3) existing parking spaces in the NJ Transit train station parking lot that abuts to the north. The applicant should provide testimony regarding any discussions/agreements with NJ Transit regarding removal of these parking spaces.
- d. The Applicant shall provide testimony to the Board to provide an overview of the anticipated stormwater management plan to address the Township's Stormwater Management Control ordinance (DRO Section 181-525) including the requirements for a Major Development, contributory flow to the site, and the point(s) in question that will need to be analyzed.
- e. The Applicant shall provide testimony to the Board summarizing the anticipated traffic impacts of the proposed development. Testimony shall address trip generation, loading and unloading operations, on-site vehicle and truck circulation. Board shall note that submission of a Traffic Impact Statement is required as part of the subsequent Preliminary and Final Major Site Plan Application.
- f. According to NJDEP Geoweb, the subject site contains no wetland areas. The Applicant shall provide testimony that summarizes the past use of the site. Board shall note that submission of an Environmental Impact Statement is required as part of the subsequent Preliminary and Final Major Site Plan Application, as well as soil and groundwater information.
- g. Should Board act favorably upon the Use Variance application, the Applicant shall be required to obtain the required Preliminary and Final Major Site Plan approval noted above in accordance with the provisions of the Municipal Land Use Law and §181-700.A.3, 808 and 809 of the Township Development Review Ordinance. The Applicant shall also obtain the required outside agency approvals if the variance is granted by the Board.
- h. CME reserves the right to identify and comment upon additional variance relief or waivers that may be necessary upon review of the Preliminary and Final Major Site Plan application.



Hazlet Township Land Use Board
Re: Hazlet Station, LLC; Use Variance
Engineering and Planning Review #1

March 28, 2023
Our File No. HHZL0229.01
Page 10

Should you have any questions or require additional information, please do not hesitate to contact this office.

Very truly yours,

CME Associates

Trevor J. Taylor, PE, PP, CME
Land Use Board Engineer

TT/TF

cc: Rob Bengivenga Acting Zoning Officer
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